

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON LONG RANGE PLANNING

Call to Order: By **CHAIRMAN DAVE KASTEN**, on January 20, 2003 at 8:30 A.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Rep. Dave Kasten, Chairman (R)
Sen. Tom Zook, Vice Chairman (R)
Rep. Christine Kaufmann (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)
Rep. John Witt (R)

Members Excused: Sen. Bob Keenan (R)

Members Absent: None.

Staff Present: Catherine Duncan, Legislative Branch
Jane Hamman, OBPP
Pamela Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp for these minutes appears at the bottom of the content it refers to.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB6 & HB8 (RRG&L) 1/6/2003
Executive Action: None

HEARING ON RENEWABLE AND RESOURCE GRANT AND LOAN PROGRAM**Opening Statement:**

Pam Smith, Montana Department of Natural Resources (DNRC), referred to Page 23 of the Governor's Budget Book. This is for Project No. 3, applicant name is Flathead Basin Commission, project name is Ashley Creek Headwaters Restoration Project. **DNRC** recommends the full amount requested to be granted-\$100,000.

Proponents' Testimony:

Mark Holston, Flathead Basin Commission, stated that the Ashley Creek watershed is west of Kalispell and is becoming increasingly urbanized. Traditional agriculture is located there as well as four tributaries. It is also one of the most polluted watersheds in the entire Flathead Basin. The Commission is the State's representative in doing the TMDL work on Flathead Lake and is also working with DEQ and EPA. Ashley Creek Watershed is one of the targeted areas to try to achieve "nutrient pollution reduction." A number of grants will also be part of the overall project. It is very important that this project is granted, as this money is the "keystone to the entire approach" of watershed restoration. Other projects that will be done with the money are: fisheries, challenge grants, and the EPA Watershed Grant Program. It is very important to the overall picture of improving the quality of water in the Flathead Lake.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.2}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

CHAIRMAN KASTEN asked **Mr. Holston**, "Where are you at on the livestock grazing agreements?" **Mr. Holston** replied, "The lease lands are administered by DNRC, but there is a new large land holder in the area that is changing and we need to contact that owner. We do make sure that a grazing protocol is in place." The next question from **CHAIRMAN KASTEN** regarded the livestock operators, and whether they have been brought in yet. **Mr. Holston** responded favorably that there are several of the largest ranchers in the area that are in the watershed group. **CHAIRMAN KASTEN** commented that without these agreements in place the efforts could be compromised. **Mr. Holston** responded that the assessment identified different priorities for remedial action in

watershed restoration. One of the landowners has already agreed and riparian fencing has been installed.

REP. WITT asked Mr. Holston about the time frames and whether they were going to fall within the time frame we have. **Mr. Holston** replied that he would work with those parties and do everything he could do.

SEN. ZOOK commented about having agreements in place before searching for funds. **Mr. Holston** replied that some work is already being done and the landowner has signed off. To date, no problems have been encountered. If there were problems, there would be other places to put the resources of one particular site if someone would say they did not want to be part of project.

REP. WITT commented to Mr. Holston that he didn't see support from "special interest" groups, such as the "trout people, or walleye people." **CHAIRMAN KASTEN** pointed out that \$30,000 came from the Fish, Wildlife and Parks Foundation. **Mr. Holston** commented that money came from the FWP Future Fisheries Fund.

REP. WITT then asked of Mr. Holston to explain the U.S. Fish and Wildlife Foundation Grant to him. **Mr. Holston** informed him that it is fisheries related. It is all interrelated as to water temperature, protecting stream banks, re-vegetation etc. It is all related to improving water quality. This is foundation money, explained **Mr. Holston**, not U.S. funds. **Ms. Hamman** asked Mr. Holston, "If the grant is approved, would you would be prepared to move forward with this project?" **Mr. Holston** replied, "Yes, absolutely, although we do it see it as part of a larger package of other grants that (we) would like to support the whole thing." He continued to tell the Committee "if we do not have this fund, some of the other funding might be in jeopardy, such as the EPA grant, the Watershed grant." The State has been working with the EPA regarding the Total Maximum Daily Load(TMDL)issues.

SEN. TROPILA remarked that the stock growers on this committee are concerned about water for their livestock. "Are there other sources of water for these livestock if they were eliminated from the stream flow?" **Mr. Holston** answered, "Part of our program involves off-stream watering" involving various methods. The issues are important with more land being turned into sub-divisions instead of agricultural use.

SEN ZOOK pointed out that grants from the Future Fisheries have not been given out yet along with the Fish and Wildlife Foundation Grant. **Mr. Holston** stated the Future Fisheries grant has been received for \$30,000. The U.S. Fish and Wildlife grant has not yet been received to his knowledge. **John Tubbs, Montana Department of Natural Resources**, informed the Committee that

there is a two-year cycle on these grants, and this is only the first year in the cycle.

Closing:

CHAIRMAN KASTEN closed the hearing on the Flathead Basin Commission hearing.

{Tape: 1; Side: A; Approx. Time Counter: 6.2 - 21}

Opening Statement:

Pam Smith, Montana Department of Natural Resources Council, (DNRC) referred to Page 28 of the Governor's Budget Book. This is for Project No. 5; applicant name is North Powell Conservation District; project name is Blackfoot River Habitat, Water Quality, and Restoration Enhancement. DNRC recommends the full amount requested of \$62,600 be granted.

Proponents Testimony:

Tina Bernd-Cohen, Blackfoot Challenge, said, "This kind of funding provided by the State is critical to our needs." **Ms. Bernd-Cohen.** This project is for technical support at the local level. There is stream bank erosion, low flows and temperature elevation, among other things. They are spending millions of dollars in the Blackfoot for restoration. A number of projects are ongoing with more in line.

Opponents Testimony: None

Informational Testimony: None

Questions from the Committee:

REP. KASTEN asked Ms. Bernd-Cohen if this was the first effort to get the plan together. **Ms. Bernd-Cohen** answered that this was not. She said that this is the first effort for an integrated plan only, and continued to explain to the Committee the process that they are going through and what they are seeking with the TMDL studies. **REP. KASTEN** inquired whether a lower amount would suffice, and also if the \$53,000 was already committed by the DEQ. **Ms. Bernd-Cohen** responded in the affirmative that the \$53,000 was committed, and that they were already at a bare-bones budget and with nowhere to cut.

REP. WITT asked Ms. Bernd-Cohen if they would be doing the project if they didn't get the money, **Ms. Bernd-Cohen** replied

that they wouldn't be as they don't have an action plan. There is no implementation program in place.

{Tape: 1; Side: A; Approx. Time Counter: 21 - 30}

Closing:

CHAIRMAN KASTEN closed the hearing on Blackfoot River Habitat, Water Quality and Restoration Enhancement.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 1.2}

Opening Statement:

Pam Smith, Montana Department of Natural Resources Council, (DNRC), referred to Page 59 of the Governor's Budget Book. This is for Project No. 16, applicant name is Buffalo Rapids Project; project name is Refit of Glendive 1 Pumping Plant. **DNRC** recommends full grant funding of \$100,000 and loan of \$1,315,000 at 4.5% interest rate.

Proponents Testimony:

Dave Schwarz, Buffalo Rapids Project, explained to the Committee that this is a Bureau of Reclamation project, constructed in the late 1930's and 1940's. It begins at point 17 miles east of Miles City and follows the Yellowstone River all the way to Glendive, a distance 64 miles. Total acres in the project are 45,000 with 25,380 of those irrigated. This is powered by three GE motors of the 1903 vintage. These pumps reportedly pumped sewage in New York City prior to coming to Montana. An interim loan was obtained from Stockman's Bank for an amount to get this project started. There are 15,000 acres presently unable to get water.

{Tape: 1; Side: B; Approx. Time Counter: 1.2 - 8.1}

Mike Murphy, Montana Water Resources Association, stated his support for this project.

Opponents Testimony: None

Informational Testimony: None

Questions from the Committee:

REP. KASTEN informed the Committee that the assessment will be \$31.25 per acre. **Mr. Schwarz** informed the Committee that District 1 was \$25 per acre prior to this and they have increased

that amount \$4.50 to \$29.50 for this coming year. **REP. WITT** inquired of Mr. Schwarz what the "in-kind" funding was. **Mr. Schwarz** answered that the funding was "a lot."

SEN. ZOOK asked Mr. Tubbs, about the amount of projects that are in the price range, with **Mr. Tubbs (DNRC)** replying there would be very few are that expensive. They do have a very low cost of energy and a great growing season.

REP. WITT asked Mr. Schwarz if they could still compete with other growers with this investment. He responded that they could.

Closing:

CHAIRMAN KASTEN closed the hearing on Buffalo Rapids Project hearing.

{Tape: 1; Side: B; Approx. Time Counter: 8.1 - 14.4}

Opening Statement:

Bob Fischer, Montana Department of Natural Resources Council, referred to Page 66 of the Governor's Budget Book. This is for Project No. 19, applicant name is Sidney Water Users Irrigation District, project name is Improving Irrigation Efficiency. **DNRC** recommends the full amount requested of \$100,000 be granted.

Proponents Testimony:

Ray Bell, Sidney Water Users Irrigation District, explained that this water-users irrigation district was put in operation in 1939. In 1995 it became a water irrigation district. The district covers approximately 4,771 acres. It is located in Richland County, the eastside of the Yellowstone River near Sidney. There are 30 landowners with an assessment amount of \$38 per acre, with a total annual amount of assessment of \$133,588.

The District will contribute with a lifetime distribution of \$57,536. Three primary goals are:

- 1) Overall system efficiency
- 2) Erosion and sedimentation
- 3) Reduction of noxious weeds

Mike Murphy, Montana Water Resources Association, is in support of this program.

Opponents Testimony: None

Informational Testimony: None

Question from the Committee:

REP. WITT questioned Mr. Fischer about current water use efficiency, presently at 22.5%. Mr. Fischer informed the Committee that he will get the information requested to them.

Closing:

CHAIRMAN KASTEN closed the hearing on Sidney Water Users Irrigation District hearing.

{Tape: 1; Side: B; Approx. Time Counter: 18.2 - 20.8}

Opening:

Bob Fischer, Montana Department of Natural Resources Council (DNRC), referred to Page 69 of the Governor's Budget Book. This is for Project No. 20, applicant name is Stillwater County, project name is Yellowstone River Flood plain Management Project. DNRC recommends the full amount requested of \$100,000 to be granted.

EXHIBIT(jlh11a01)

EXHIBIT(jlh11a02)

EXHIBIT(jlh11a03)

Proponents Testimony:

Bo Bowman, Planning Director and Flood plain Manager of Stillwater County, stated that they have excellent mapping that was done during the 1980's from FEMA which is used every day. The one missing link is information regarding the Yellowstone River. There are areas of information lacking, such as flood elevation information and engineering data. This money will allow engineers to do mapping of approximately 17 miles of river.

Lawrence Siroky, Montana Department of Natural Resources Council, Water Operations (DNRC), informed the Committee that it is his office that is responsible for the mapping of flood plains in the state. There are problems with encroachment.

Opponents Testimony: None

Informational Testimony: None

Questions from the Committee:

REP. KASTEN asked Mr. Siroky if there would be a way to coordinate the separate projects regarding the Yellowstone River, with **Mr. Siroky** answering in the affirmative. **Mr. Tubbs (DNRC)** also stated that the Yellowstone Conservation District Council, representing 14 conservation districts are in support of coordination.

SEN. TESTER asked Mr. Siroky if the DNRC does the mapping of these rivers. The response was that the Flood Plain Act requires DNRC to do the mapping. **SEN. TESTER** then asked if the \$100,000 was not provided, would the DNRC do the mapping with the response being no.

{Tape: 1; Side: B; Approx. Time Counter: 20.8 - 30}

SEN. TESTER remarked that the flood plain that was currently mapped was too large according to the presentation. He then asked when the new mapping is done what would happen with the information. **Mr. Bowman** replied that he would use the mapping every day for building permits, septic system permits, land sales etc. Their conversation continued about the flood plain levels, houses being built and insurance rates being affected.

REP. WITT followed up with the comments made by Mr. Bowman regarding the rebuilding of a house or barn and if the re-mapping shows a change in what the home owner should do. **Mr. Bowman** said that the home builder would need to contact their office and re-work their plan. **REP. WITT** asked if there was a Board who would make that decision. **Mr. Bowman** responded that the Flood Plain Appeal Board would address the situation.

Closing:

CHAIRMAN KASTEN closed the hearing on the Yellowstone River Flood Plain Management Project hearing.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 6.9}

Opening Statement:

Pam Smith, Montana Department of Natural Resource Council (DNRC), referred to Page 198 of the Governor's Budget Book. Applicant name is Stillwater County, project name is Assessing the Development of Multi user Groundwater Resources in the Lake Basin of South-Central Montana. DNRC recommends no funding at this time.

EXHIBIT (j1h11a04)

Proponents Testimony: None

Opponents Testimony: None

Informational Testimony: None

Questions from the Committee: None

Closing:

CHAIRMAN KASTEN closed the hearing on the Assessing the Development of Multiuser Groundwater Resources in the Lake Basin of South-Central Montana hearing.

{Tape: 2; Side: A; Approx. Time Counter: 6.9 - 9.4}

Opening Statement:

Pam Smith, Montana Department of Natural Resources Council

(DNRC), referred to Page 131 of the Governor's Budget Book. This is for Project No. 45, applicant is Richland County Conservation District, project name is Irrigation Potential of Groundwater Underlying the Lower Yellowstone Valley. DNRC recommends the full amount requested of \$100,000 be granted.

Proponent's Testimony:

Steve Prust, Richland County Conservation District, informed the Committee that project is to identify ground water resources. There is a channel of aquifer lying at a depth of about 100 feet at the deepest part. Little is known about the characteristics of this aquifer. The goal is not to significantly affect other local water users that are in this aquifer. There is a good potential for additional development with a high recharge rate. They will install test wells and recover ground water data.

EXHIBIT (j1h11a05)

EXHIBIT (j1h11a06)

Tony Varone, Richland County Conservation District, urged the Committee to support this effort.

SEN. MCNUTT, SD 50, Sidney, Montana, remarked that this has the potential for increased economic development in this area. **SEN. MCNUTT** supports this funding.

REP. STEINBEISSER, HD 100, Sidney, Montana, declared that this is important for a good source of water for manufacturing for this area. **REP. STEINBEISSER** supports this funding.

Gary Amestoy, Richland Economic Development, that this delineation of ground water aquifer in the Sidney area is totally consistent with the goals and objectives of Richland Economic Development in that it will help develop more irrigation in the area, for both industrial and commercial development.

REP. KASTEN, HD 99, Brockway, Montana, that the previous proponents are "looking outside the box." This project would be to develop low-cost water usage. **REP. KASTEN** supports this.

Opponent's Testimony: None

Informational Testimony: None

Questions from the Committee:

SEN. ZOOK commented to Mr. Amestoy that they have one of the best and aggressive economic development groups in that area. Previously they had a project to take water from the Yellowstone River, not from underground sources. **SEN. ZOOK** stated that this can lead to piping it out and growing more valuable crops. **Mr. Amestoy** replied that was the West Grange Project. That project has moved ahead but very slowly due to hard economic times. **SEN. ZOOK** then asked Mr. Amestoy if that has been set aside and replaced with this project to which **Mr. Amestoy** replied, "No." **Mr. Amestoy** stated that there could possibly be an overlap of some acres being in both projects. **REP. STEINBEISSER** explained to the Committee that the area in question is above this project. These are two separate projects.

REP. WITT asked **REP. STEINBEISSER** about the commercial, and economic development and whether one outweighs the other. "Is there more interest in industrial development or agricultural?" **REP. STEINBEISSER** replied by saying that the split is more like 60/40 agricultural. **Mr. Tubbs** interjected and said that there can be no split between agricultural and industrial (i.e. the malting crops and the malting factory). **REP. WITT** and **Mr. Tubbs** then conversed about the water temperature, discussing whether it was favorable and whether the malting facility needed the water to be heated.

REP. KAUFMANN was interested in HB 6 and an incorrect amount included therein. Apparently there was some cut off amount of \$38,000. **Mr. Tubbs** answered **REP. KAUFMANN** that this is below that funding. Further, **Mr. Tubbs** said that they wanted to recommend enough projects so that this Committee can make some

policy choices. There will be some projects that will not move forward, so that some other projects can.

Closing:

CHAIRMAN KASTEN closed the hearing on the Irrigation Potential of Groundwater Underlying the Lower Yellowstone Valley hearing.

{Tape: 2; Side: A; Approx. Time Counter: 9.4 - 25.3}

Opening Statement:

Pam Smith, Montana Department of Natural Resources Council
Applicant name is Richland County Valley View Water District,
Project Name is Point-of-Use Reverse Osmosis Water Treatment
Systems. DNRC recommends no funding for this project

Proponents Testimony:

Don Nelson, Richland County Valley View Water District, stated that they are located 7 miles from the Yellowstone River with 30 homes and 60 people living there. A lawsuit may be forthcoming from the Montana Department of Environmental Quality requiring them to fix this problem with the high fluoride levels in their water. If it is not resolved, DEQ may shut down their water. The fluoride levels range from 4.71-9.96. The water rates started out at \$22 and have recently been raised to \$45 per month.

EXHIBIT (j1h11a07)

REP. STEINBEISSER, HD 100, Sidney, Montana, stated that there is a serious problem with the high fluoride levels in their drinking water. These are hourly-wage earners and they don't make a lot of money; they cannot afford to resolve it on their own.

SEN. MCNUTT, SD 50, Sidney, Montana, stated that there is a unique problem with these constituents and they need help.

{Tape: 2; Side: A; Approx. Time Counter: 25.3 - 30}

Gary Amestoy, Richland Economic Development, encouraged the Committee to vote for this. This is not an economic development issue, but they do have a problem. The loss of these 30 families would impact the Sidney area greatly if they had to relocate.

Betty Njos, Richland County Valley View Water District, stated that they have tried very hard and don't know what else to do to solve this fluoride problem. The water rates have been raised to

\$45 per month. They may have to raise the rates to \$60 per month, that being the case, **Ms. Njos** would have to move.

Cathy Brumage, Richland County Valley View Water District, informed the Committee that they are having to haul water now and they are very concerned parents.

Ruth Bartholomew, Richland County Valley View Water District, stated that this is an ongoing problem that has been going on for a long time and we may loose our homes if not resolved.

Opponents Testimony: None

Informational Testimony: None

Questions from the Committee:

REP. KASTEN asked **Ms. Bartholomew** about the distance from Sidney where the main source or well is to where they are. **Ms. Bartolomew** replied, "Four miles." There was also discussion about piping the water from Sidney. However, they are located 400 feet above Sidney. The question was asked whether the town of Sidney had been approached to help with funding, and the answer was that they had been approached, but it was too expensive.

REP. KAUFMANN inquired whether the residents knew before they purchased their land of the problems with the water. The response of **Ms. Brumage** was that they did not know. This entire neighborhood is trailer homes, and they can be moved if necessary.

The State requires the fluoride be lower than four. The health problems related to the higher levels of fluoride are: stained teeth, and a loss of calcium from your bones and teeth as fluoride replaces the calcium. This is called "fluorosis."

REP. WITT mentioned that by some reports the board members are the problem, not DEQ. **Ms. Bartholomew** responded by saying they had restructured their board, and hopefully they are now on the right track. Their conversation continued to address other alternatives, emergency funding and any other sources of revenue. Because they have water provided (even though it is not within the levels of fluoride that is safe) there is no emergency funding available, as this is not an emergency. **Mr. Fischer** informed the Committee that they had been contacted by this group and because of the grant cycle and the fact we only have \$125,000, this did not fall into the criteria for emergency funding. **Mr. Fischer** further explained they have the cheapest,

best alternative identified. The engineer did the studies but didn't have a lot of time to put this together for this Committee. **Mr. Tubbs** (DNRC) informed the Committee that additional research would be done and DNRC would see what they could come up with. **SEN. ZOOK** commented that none of this money was for legal fees. **Ms. Hamman** (OBPP) inquired about the alternative being proposed being "Point-of-Use" treatment systems. **Mr. Fischer** (DNRC) responded by saying that at each home there would be a small reverse osmosis plant. In other words, install a water filter on the kitchen sink. The cost is approximately \$1000 per unit, and they are expensive to maintain. **Mr. Tubbs** stated that this is an unusual treatment for public water users. There are no other systems like this in the entire state.

Closing:

CHAIRMAN KASTEN closed the hearing on the Point-of-Use Reverse Osmosis Water Treatment Systems hearing.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 15.1}

Opening Statement:

Pam Smith, Montana Department of Natural Resources Council (DNRC), referred to Page 117 of the Governor's Budget Book. This is for Project No. 39, applicant name is Montana Department of Corrections, Project Name is Prison Ranch Dam Rehabilitation. DNRC recommends the full amount requested of \$100,000 be granted.

Proponents Testimony:

Bill Dabney, Montana Department of Corrections, stated to the Committee that there be approval of this Renewable Resource Grant for one of the five high hazard dams located on the prison land. The improvements made to this dam will result in the dam less likely to fail that would reduce the loss of life and property damage below in the city of Deer Lodge. DNRC estimates the loss of life could be 20.

EXHIBIT (j1h11a08)

Jim Magone, Mayor of the city of Deer Lodge, informed the Committee that if the dam breaks there will be a loss of life and a health hazard also.

Mike Mahoney, Montana State Prison, Warden, supports this grant application. He works with Montana Correctional Enterprise group and remarked they are great stewards of the land.

Lawrence Siroky, Montana Department of Natural Resources Council (DNRC), stated that there are about 92 high hazard dams in the state of Montana. "High Hazard" refers to the potential for loss of life downstream and has nothing to do with the condition. The permit for this dam was issued contingent on repairs being done in five years. The spillway and outlet need to be replaced.

REP. ROME, HD 56, Garrison, Montana, supports this grant and, as a member of the Montana Correctional Advisory Committee, needs to supply some additional information to the Committee. With the drought conditions, this dam is no longer able to supply the water for the valley that the valley needs.

Opponents Testimony: None

Informational Testimony: None

Questions from the Committee:

REP. WITT inquired of Mr. Siroky about the amount of High Hazard dams and the criteria for this rating. **Mr. Siroky** explained there are 92 total with the criteria that if they would fail there would be loss of life.

SEN. TROPILA was interested in the dam holding less water and the reason for that. **Mr. Dabney** responded that there was less snowfall and that has contributed to the lower levels.

REP. KASTEN asked about the in-kind contribution of \$33,000 and what that entails.

Mr. Dabney responded that is due to ranch labor, and the work they do themselves. **Mr. Ross Swanson, Montana Correctional Unit**, also replied to the inquiry and said there is extensive labor (crushing and hauling of rock) involved, etc.

Closing:

CHAIRMAN KASTEN closed the hearing on the Prison Ranch Dam Rehabilitation hearing.

{Tape: 2; Side: B; Approx. Time Counter: 15.1 - 30}

CHAIRMAN KASTEN spoke with the Committee about Executive Action to be taken on HB 11,6 and 8. It will take place Wednesday after the hearing. The meeting time will be 8:30 a.m. Tuesday. **Mr. Tubbs** made remarks to the Committee, with **REP. WITT** and **Ms. Hamman** also speaking.

EXHIBIT(j1h11a09)

EXHIBIT(j1h11a10)

EXHIBIT(j1h11a11)

{Tape: 3; Side: A; Approx. Time Counter: 0 - 2.3}

ADJOURNMENT

Adjournment: 10:28 A.M.

REP. DAVE KASTEN, Chairman

PAMELA SCHINDLER, Secretary

DK/PS

EXHIBIT (j1h11aad)